

**Minutes of the Eighty- Eighth Meeting of the
Office for Legal Complaints (OLC)**

Monday 4 June 2018

10:00 – 15:00

Legal Ombudsman, Birmingham

Present:

Wanda Goldwag, Chair

Bernard Herdan

Rebecca Hilsenrath

Michael Kaltz

Lis Bellamy

Annette Lovell

Jane Martin

Board Secretary:

Kay Kershaw

In attendance:

Rob Powell, Chief Executive

Rebecca Marsh, Chief Ombudsman

Steve Pearson, Senior Ombudsman (items 6 - 10)

Mariette Hughes, Senior Ombudsman (item 7)

Emma Ireson, Programme Manager (item 8)

Gina Patel, staff observer

Jack Stacey, staff observer

Preliminary issues:

The Board meeting was quorate.

Annette Lovell declared that she was an employee of the Financial Ombudsman Service (FoS). The Board agreed that she could remain present for all discussions relating to FoS at this meeting.

Item 1 – Welcome and apologies

1. The Chair welcomed attendees to the meeting.
2. Staff observers were reminded to observe the confidentiality of discussions held during the meeting where appropriate.

Item 2 – Minutes of the previous meeting

3. The minutes of the OLC meeting held on 14 March 2018 **approved** for publication, subject to the recommended redactions.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 14 March 2018.

4. The minutes of the OLC meeting held on 23 April 2018 were **accepted** as an accurate record and were **approved** for publication, subject to the recommended redactions.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 23 April 2018.

5. The minutes of the RemCo meeting held on 14 March 2018 were **approved** for publication, subject to the recommended redactions.

ACTION: Board Secretary to publish the minutes of the RemCo meeting held on 14 March 2018.

Item 3 - Matters arising and outstanding action points

6. Members **noted** the update on the actions from previous meetings.
7. The CEO updated the proposed redactions so that paragraphs 67- 73 of the March OLC Board meeting be redacted.

ACTION: Board Secretary to redact the action log and minutes of the March OLC board meeting as set out above.

8. It was **agreed** that the outstanding action from December 2017 for the CEO to consider whether there was any scope to generate commercial revenue streams through data should be deferred to December 2018.
9. The Chief Ombudsman confirmed that the lessons learnt from the Dispatches programme had been circulated to the Board on 3 June 2018.
10. The Board **ratified** a decision made out of committee, to approve the Chief Ombudsman's recommendation to appoint 5 Level One Ombudsmen to start in post in June 2018 and 10 Pool Ombudsmen to start in post in July, subject to due diligence.
11. The Board **ratified** the Chair's decision made out of committee to authorise the CEO to sign the MoU with GIAA for the provision of internal audit services for 2018/19, subject to clarification of paragraph 9.3 and other queries raised by the Chair of ARAC on fees and whether VAT was included or not. The MoU had now been updated and signed.
12. The Board **ratified** a decision made by members of ARAC out of committee to amend the minutes of the February ARAC meeting to reflect the approval of the Internal Audit plan for 2018/19 meeting and approval to publish the minutes.
13. The Board **noted** that the first draft of the OLC's Annual Report and Accounts for 2017-18 had been reviewed by ARAC and had been circulated to other Board members on 23 May for further comment before its submission to the NAO for their audit review.

Item 4 – RemCo update

14. The Chair of RemCo provided a verbal update on discussions held at the RemCo meeting held on 27 April 2018 which centred on the ongoing development of the employee value proposition.

Item5 – Standing reports

Chief Executive's Report

16. The CEO presented a report highlighting the key issues arising since the last meeting.
17. Having fully transitioned to the new business process, all new cases were now being entered on to the new case management system (CMS 2). Non-critical issues with bugs and letter templates were being addressed in line with the planned timetable and work was being undertaken to refine the new telephony, where some snagging had been experienced by staff; this had not impacted service users. Plans were being developed to decommission the old CMS.
18. The CEO confirmed that business continuity arrangements were in place and could have been called upon at any point during this time of transition, had it been required. The CEO agreed to forward a copy of the business continuity plan to Jane Martin.

ACTION: CEO to forward a copy of the business continuity plan to Jane Martin.

19. Good progress had been made with GDPR implementation. A temporary Data Protection and Information Compliance Officer has commenced in post and a permanent replacement is to join the organisation in August. All but two supplier contracts have been updated to reflect GDPR requirements. Breach guidance for staff was circulated to members of ARAC for information. The email archive is to be decommissioned in August.
20. The results of the latest staff survey saw a decline in the employee engagement index score, which may reflect the timing of the survey. The results were being analysed by the Management Team and would be tabled for discussion at the next RemCo meeting. The Board **supported** the decision taken by the Executive to proceed with the survey despite it being undertaken at a time of critical organisational and cultural change and **noted** that staff responses were likely to reflect the scale of these changes and the impact of initial snagging issues.
21. The CEO reported on ongoing recruitment activity, advising that the next tranche of operational recruits would be joining the organisation on 5 June.
22. A tracking model was in place to manage the establishment. The Chief Ombudsman emphasised that recruitment and training needed to be balanced with the demands of day to day work in order to ensure that the performance improvement trajectory was maintained. Improvements to the induction and training process had been introduced, including the introduction of training videos which were being used in addition to the face to face training.
23. The CEO reported that he was awaiting confirmation of the date when the new MoJ Body would move in to occupy half a floor of LeO's office, but that this was anticipated to be during Q2.
24. The Board **noted** the update on legal matters that had been issued separately under legal privilege.
25. The Board **noted** the update on external meetings attended by the CEO.

26. The CEO reported that there was a lot of collaborative working taking place with other ALBs within the MoJ family; this included a joint Management Team meeting with the Office of the Public Guardian that would be taking place later in the month.
27. Following discussion, it was agreed that the CEO and Chief Ombudsman would produce a combined report detailing external meetings and stakeholder engagement events which would be tabled at future Board meetings.

ACTION: CEO and CO to produce a combined report providing details of their external meetings and stakeholder engagement events.

28. The Board **noted** the issues highlighted in the CEO's report.

Finance Report

29. The CEO presented a report providing an overview of the financial position at the end of month one, which included a commentary on the key issues in the management accounts.
30. The Board **noted** that the figures reflected the original budget prepared in early February 2018. Since then, further changes had been made to the establishment, reflecting the changes introduced by the new Chief Ombudsman and refinements to the new business process. An updated re-forecast is to be prepared at the end of month two in order to align the changes.
31. The Board was advised that formal delegations from the MoJ were awaited.
32. An underspend at the end of month one reflected changes in the timing of staffing costs in legal, CMC and corporate areas of the organisation; legal fees and the release of Judicial Review provisions following the resolution of cases; and changes in the timing of IT spend.
33. The capital budget would be carefully managed.
34. The CEO reported on the good progress made in regard to the preparation of the Annual Report and Accounts and formally thanked Sarah Ritzenthaler, Parliamentary and Policy Officer, and Emma Cartwright, Head of Finance for their excellent work.
35. A copy of the draft Annual Report and Accounts was circulated to the Board out of Committee on 23 May for review and comment and was shared with the MoJ on 25 May to aid preparation for a meeting with Lord Keen.
36. An external audit of the Annual Report and Accounts commenced on 21 May.
37. The Annual Report and Accounts will be presented to Lord Keen at a meeting on 21 June by the OLC Chair, Chief Ombudsman and CEO.
38. Approval for the Annual Report and Accounts is a matter reserved for the full OLC Board. Following discussion, the Board **approved** a proposal put forward by the CEO for ARAC to undertake a final review of the Annual Report and Accounts at its meeting on 2 July and for ARAC to then make a recommendation to the full OLC Board to approve the Annual Report and Accounts for publication outside of committee.

39. It was **noted** that ideally the timetable would allow Board to sign off and approve the publication of the Annual Report and Accounts in committee, but due to the tight timescales this was impossible. It was **agreed** that next year a meeting would be scheduled for the Board to sign off and approve the publication of the Annual Report and Accounts in committee, either by telephone or face to face.

ACTION: Board Secretary to schedule a Board meeting at the appropriate time in 2019 for the Board to sign off and approve the final 2018-19 Annual Report and Accounts.

40. The Board **noted** the contents of the finance report.

Chief Ombudsman's Report.

41. The Chief Ombudsman presented an update on key activities since the April Board meeting and reported that she continued her introductions to key stakeholders as part of her induction and work on performance improvement across the business, where some green shoots were being seen as a result of new ways of working.
42. A discussion took place about the SRA's decision to issue a number of waivers for solicitors to work in non-regulated business, and its implications. The Chief Ombudsman reported that she would be meeting with the SRA's Executive Director to discuss this further. An introductory meeting for the Chief Ombudsman to meet the Chair of the SRA's Board had been arranged for 5 June which the OLC Chair would also attend.
43. The Board were advised that a proposed response to the SRA's consultation on Professional Indemnity Insurance would be circulated to Board members shortly for comment and approval.
44. The findings of joint research undertaken with the SRA on Better Information is to be published soon and would be circulated to the Board. LeO and the SRA would be issuing individual press releases about this.
45. The Board **noted** the update on external meetings attended by the Chief Ombudsman.
46. The Board **noted** the Chief Ombudsman's report.

Item 6 – Performance report

47. Senior Ombudsman, Steve Pearson, presented a paper outlining operational performance for April; this included the performance delivery plans for legal and CMC jurisdictions.
48. The Board **noted** that the delivery plans may need to be re-profiled to reflect the final decision about the approach to and timing of decommissioning the old CMS and moving old cases into the new system.
49. The Board **noted** that performance figures against timeliness KPIs for April remained poor because of the ageing legacy caseload. This was also impacted by transition to the new business process and new CMS, bank holidays and telephony issues.

50. Performance against the delivery plan in May was better and there were early indications of improvements following the introduction of new ways of working; this was welcomed by the Board who emphasised the importance of making successes visible to staff.
51. The Chief Ombudsman explained the methodology underpinning three distinct groups of operational staff whose performance and quality of work was being monitored closely in order to drive forward improvement.
52. The split of data on the delivery plan in the performance report effectively showed the data relating to the performance and quality of the work being undertaken by the three distinct operational groups; the contrast between longitudinal, latitudinal and qualitative data would show why each methodology was working.

ACTION: When the evaluation of the new models comes to Board in the future, the Chief Ombudsman should have regard to the longitudinal, latitudinal and qualitative data in order to show why each methodology was working.

53. The Board **noted** the contents of the performance report.

Item 7 – Communications and engagement strategy 2018 -20

54. The CEO presented a paper summarising the communications and engagement strategy for 2018-20.
55. Board members provided feedback on the level of detail within the paper and, following discussion, it was **agreed** that the CEO would circulate a copy of the full communications and engagement strategy to Board members for further information.

ACTION: CEO to circulate a copy of the full communications and engagement strategy to Board members.

56. In discussion, suggestions were made to add ‘challenge on engaging with a diverse legal group’ to the weakness section of the SWOT analysis and add ‘direct contact with customers’ in the opportunity section.
57. Additionally, suggestions were made to include more emphasis on sharing insight within the strategy, rather than feedback, and consider segmenting feedback according to different professional groups and assuring the Board that engagement activity was not simply ‘preaching to the converted’. Board highlighted the importance of a prioritised action plan, and of balancing effective casework with the second regulatory objective to share insights from running the scheme.
58. The CEO **noted** the comments made and agreed to amend the paper in line with the Board’s comments.
59. Subject to these amendments, the Board **approved** the communications and engagement strategy 2018-20.

Item 8 – Approval of 2018/19 strategic risks

60. The CEO presented a paper setting out the final proposals for strategic risks for 2018/19, with supporting information setting out the corporate risks and the descriptions for each of the risk appetites.
61. A Board member suggested the inclusion of additional corporate risks in the organisational capacity and governance risk group. The Board discussed the risk appetite for the organisational capacity and governance risk.
62. It was **agreed** that the CEO would discuss this further with the Board member, and that there would be opportunities to review individual risk appetites through quarterly review of risks by ARAC and quarterly discussions of strategic risk with the full Board. It was also **agreed** that the wording of the corporate risk associated with IT would be amended to better align with the open risk appetite.
63. Subject to any substantive amendments being identified during this discussion, the Board **approved** the strategic risks for 2018/19 and the risk appetites proposed for each strategic risk.

Item 9 – KPI Tolerances.

64. The CEO presented a paper setting out the proposed KPI tolerances, beyond which any variations will be reported to the OLC Board. This paper reflected feedback on the initial proposals set out in a paper discussed at the Board meeting in April and included a proposal to provide the Board with a monthly information report against each KPI either in Board papers or by correspondence for the first year. In response, the Chair advised that additional Board meetings may be convened should the Board has cause for concern about information included in this monthly information report.
65. Following discussion, it was **agreed** that the CEO would meet with one of the Board members to clarify the reporting of variances against tolerance for timeliness performance.
66. The Chief Ombudsman reported that the operational Forecasting and Capacity Modeller was now in post and would be developing the operational forecasting and capacity model.
67. Following discussion, the Board **approved** the KPI tolerances for 2018/19.

Item 10 – Update on CMC transfer to the Financial Ombudsman (FoS)

68. Senior Ombudsman, Steve Pearson, presented a report updating the Board on project dealing with the statutory transfer of CMC complaints from the Legal Ombudsman to the FoS.
69. Discussions were taking place about the process for transferring data to FoS; once clarified, it was likely that further discussions would need to be held to establish how this work was to be funded.
70. It was **noted** that whilst FoS did not have the power to enforce decisions, if necessary non-compliance could be referred to the FCA for further action.
71. Concerns were raised about the proposed approach set out in the paper towards enforcement in the run up to the clean break transfer of cases to FoS, and

following discussion it was agreed that **agreed** that the strategic approach to enforcement paper due to be tabled at the July Board meeting would include a supplementary annex setting out proposals for dealing with CMC enforcement in the run up to the transfer of cases to FoS.

ACTION: Chief Ombudsman to arrange for the strategic approach to enforcement paper due to be tabled at the July Board meeting to include a supplementary annex setting out proposals for dealing with CMC enforcement in the run up to the transfer of cases to FoS.

72. The Board **noted** the update on CMC transfer to FoS.

Item 11 – Update on implementation of the 2017/18 review of Board effectiveness

73. The CEO presented a paper setting out a summary of the progress made against the action plan developed after the review of Board effectiveness in 2017 and the proposed approach towards the 2018/19 review of Board effectiveness.

74. The Board **noted** the progress made against the 2017 action plan and **agreed** to the proposals set out for the 2018/19 review of Board effectiveness, which included external input from another Government body.

Item 12– Board paper redactions

75. The Board reviewed a paper setting out the proposed redactions to June Board papers.

76. The Board **approved** the proposed redactions and **approved** the publication of the June Board papers.

Item 13 – AoB

77. A discussion took place about the horizon scanning paper that was recently circulated to Board members. Board members found the information helpful and commented that they would be interested to learn more about the motivations behind parliamentary questions and how the benefits offered by Ombudsman schemes could be shared more widely with MPs and other key stakeholders.

78. It was agreed that horizon scanning would be included as a regular agenda item for discussion at Board meetings.

ACTION: Board Secretary to add horizon scanning to the Board forward plan.

79. The Board meeting concluded with a presentation on Justice 2030 by Steve O'Connor from the MoJ. Members of the Management Team joined board members for this presentation.

80. The Justice 2030 team reviewed global trends and condensed them into four themes that were most likely to impact on the justice system and LeO in the period up to 2030:

- A changing Society - including population growth, improved health and longevity, social class and tribalism.

- A technological age - including artificial intelligence and a range of technological developments that will impact on evidence.
 - The power of the individual - including trust.
 - New rules for relationships – including new business models, the general shift to globalisation and the impact on regulations.
- 81.** The presentation gave those present much to think about in terms of developments that were likely to impact on the Legal Ombudsman in the future and highlighted the need to be thinking and planning ahead to be prepared to these changes.